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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,707	05/31/2000	Yousheng Cao	MINEP001	3822

26797 7590 08/24/2004

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EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/585,707

Applicant(s)

CAO ET AL.

Examiner

Christopher R Nalevanko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Response to Arguments***

1. Applicant's arguments filed 06/09/2004 have been fully considered but they are not persuasive. Applicant argues, "Sampat shows a pause request for a local machine. In fig. 9 of Sampat, pause services are provided. However, the description thereof, see lines 20-37 of Col. 6, clearly shows that the pause is for suspending the reception of a program being multicast from a server so that other things, such as network, disk or CPU intensive jobs in the local machine could be handled properly... There is not any teaching about retention of a paused program. Further, it is clear that Sampat teaches two separate pause functions, one at a client machine, and the other at the server, there is no connection between these two separate and independent operations. Evidently, Sampat fails to teach or suggest that a pause request is received at the media delivery center from a client machine, and the media delivery center performs the retention of a paused program in the media delivery center" (pages 8 and 9, lines 25-28 and 1-11). Examiner asserts that Sampat clearly shows that the media delivery center performs the retention of a paused program in the media delivery center. Sampat shows that all media, being paused or streamed, is stored on the media server at the head-end (col. 8 lines 17-22, col. 9 lines 17-26, col. 12 lines 53-65, col. 13 lines 5-20, "mass storage 1516"). In the stated sections, Sampat clearly shows that the server can store all media that is being broadcast to a user, regardless if the program is selected for a pause. Furthermore, it is clearly shows that the server can store a program while simultaneously broadcasting it to a user (col. 8

lines 17-22, "Server also supports the recording of data to mass storage device with... concurrent multicasting of the data to the network"). This would mean that if a show is selected for a pause, it is automatically being stored by the server. All other arguments, with regards to "a pause request is received at the media delivery center from a client machine," are moot in view of new grounds of rejection.

Finally, it does not matter why the system has paused the stream (network, disk or CPU intensive jobs in the local machine as stated in reply). All that is required by the limitations is that a system is paused. There is no limitation the specifies as to why the system is paused.

2. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sampat with the pause indication time feature of Dunn so that the head-end would have a simple way of recognizing the start-point after the 'pausing' feature was completed. This would alleviate a complicated sever process in determining where in the stream to resume playing. Furthermore, Sampat suggests the user of a "time stamp" (col. 11 lines 45-55) to synchronize and identify program streams. These time stamps provide ample

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suggestion to modify with an identification means of determining a point in the program stream.

3. Applicant's arguments with respect to the Official Notice given by the Examiner have been considered but are moot in view of the new ground(s) of rejection. The Examiner has changed the rejection to support the Official Notice. The art cited is used to prove the Examiner's Official Notice and does not prevent a Final Action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 is dependent upon itself. Correction is required

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1, 3-8, 10-14, 18-21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sampat et al in further view of Swix et al.

Regarding Claim 1, Sampat shows a method for delivery of scheduled broadcasted programs from a media delivery center to one or more client machines via a transmission media, the method comprising caching program content of broadcasted programs in local storage associated with the media delivery center, the broadcasted programs being produced externally (col. 4 lines 1-30, col. 8 lines 17-22, col. 9 lines 17-26, col. 12 lines 53-65, col. 13 lines 5-20, “mass storage 1516”), delivering the broadcasted programs from the media delivery center to the one or more client machines by streaming the program content from the local storage to the one or more client machines via the transmission medium (col. 12 lines 1-60, col. 13 lines 38-60), receiving a pause request from at least a particular one of the client machines requesting to pause a particular one of the programs (col. 6 lines 14-36, col. 12 lines 30-60), and performing the pause request by server-side retention of the program content for the particular one of the broadcasted programs so as to render the program content following the pause request to be subsequently available to a device chosen by a user of the particular one of the client machines (col. 13 lines 14-20, col. 16 lines 39-44). Sampat fails to show that the media delivery center receives a pause request from the client requesting to pause a particular broadcast show. Swix shows that a media delivery center receives a pause request to pause a particular show (col. 9 lines 50-56, “the navigator could reside in the head end, in which case a set-top box would merely send the pause, rewind, and fast-forward key

presses to the head end, and the navigator at the head end would take the appropriate actions”). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Sampat with sending the recording request to the head end so that that media delivery center would be in control of the entire pause process, alleviating costly and complicated hardware and software at the user site.

Regarding Claim 3, Sampat shows that the programs are stored in a storage space on the media delivery center (col. 8 lines 17-22). Furthermore, Sampat shows that when paused, the program data stops playing through the MSP but the MSP still receives the data (col. 13 lines 14-20, col. 16 lines 39-45). This shows that data is still inputted to the MSP for processing and caching, but is not outputted to the user.

Regarding Claim 4, Sampat shows that the transmissions medium is a data network (fig. 1).

Regarding Claim 5, Sampat shows that the data is digital data (col. 7 lines 55-58).

Regarding Claim 6, Swix shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (col. 9 lines 50-67, col. 10 lines 1-25, col. 14 lines 20-40). Swix clearly shows that the “connection management system” and “navigator” continually determine if a user is allowed to access a pause request based on an elapsed viewing time of the account.

Regarding Claim 7, Swix shows sending a request to a server for a stored program (col. 9 lines 50-67, col. 12 lines 55-67, ). Sampat shows delivering the remaining portion of the program from storage on server-side to the client through the transmissions medium (col.6 lines 15-30, col. 8 lines 1-22, col. 9 lines 5-26, col. 11 lines 5-15, col. 13 lines 14-20, col. 16 lines 1-45).

Regarding Claim 8, Sampat shows that a request includes device and location addresses for the location of the playing device (col. 25 lines 1-11, col. 30 lines 30-61).

Regarding Claim 10, Sampat fails to specifically state that the video streams are performed in accordance with a schedule. Official Notice is given that it is well known and expected in the art to schedule video deliveries. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sampat with a delivery schedule so that future video presentation could be known and provide users with future information.

Regarding Claim 11, Sampat shows that the transmissions medium is a data network (fig. 1).

Regarding Claim 12, Sampat shows the use of a variety of addresses to identify a user's receiving device (col. 25 lines 1-11, col. 30 lines 30-61). Sampat fails to specifically state that these addresses are IP addresses. Official Notice is given that it is well known and expected in the art to identify a receiver with an IP address. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sampat with the use of an IP



address so that the system used a conventional addressing system in order to be integrated with other conventional components.

Regarding Claims 13 and 14, Swix shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (col. 9 lines 50-67, col. 10 lines 1-25, col. 14 lines 20-40). Swix clearly shows that the “connection management system” and “navigator” continually determine if a user is allowed to access a pause request based on an elapsed viewing time of the account. Furthermore, Swix shows that the user is notified if the pause request is processed (col. 14 lines 20-40).

Regarding Claim 18, Sampat shows a computer readable medium including computer program code for delivery of broadcasted programs from a media delivery center to one or more clients (col. 8 lines 50-67). All other limitations of the claim have been discussed with regards to Claim 1.

Regarding Claim 19, Sampat shows that the transmissions medium is a data network (fig. 1).

Regarding Claim 20, the limitations of the claim have been discussed with regards to Claim 10.

\*\*The following claim rejection is made with the Examiner's best understanding of the limitations in light of the above 35 USC 112 2<sup>nd</sup> paragraph rejection.

Regarding Claim 21, Sampat shows that the programs are stored in a storage space on the media delivery center (col. 8 lines 17-22). Furthermore,

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Sampat shows that when paused, the program data stops playing through the MSP but the MSP still receives the data (col. 13 lines 14-20, col. 16 lines 39-45). This shows that data is still inputted to the MSP for processing and caching, but is not outputted to the user.

Regarding Claim 23, the limitations of the claim have been discussed with regards to Claim 7.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sampat et al in further view of Swix et al and Dunn et al.

Regarding Claim 2, Sampat and Swix fail to show that when the stream is paused, a location in the stream is recorded to denote the point of playback. Dunn shows that the server stores the time when the user paused so that the appropriate point is used for playback (col. 6 lines 29-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sampat and Swix with the pause indication time feature of Dunn so that the head-end would have a simple way of recognizing the start-point after the 'pausing' feature was completed.

7. Claims 9, 15-17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sampat et al in further view of Swix et al and Goode et al.

Regarding Claim 9, Sampat and Swix fails to show that the resuming location differs from the initial location. Goode shows the ability to resume a paused video at a different location than the location initially viewed (col. 14 lines 25-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Sampat and Swix with the ability

to view the remaining video at a different location so that if a user was logged into a different computer or location he or she could still finish the video.

Regarding Claim 15, Sampat shows a media delivery server that provides media program content to client machines, the server comprising an access to a storage area that provides space for storing programs (col. 8 lines 1-25), a program streaming manager to stream content to clients (col. 8 lines 50-67, col. 12 lines 1-67), and a pause/replay manager for receiving and processing pause/replay requests and streaming remaining program content retained in the storage (col. 11 lines 5-15, col. 12 lines 1-67). Sampat fails to show that the media delivery center receives a pause request from the client requesting to pause a particular broadcast show. Swix shows that a media delivery center receives a pause request to pause a particular show (col. 9 lines 50-56, "the navigator could reside in the head end, in which case a set-top box would merely send the pause, rewind, and fast-forward key presses to the head end, and the navigator at the head end would take the appropriate actions"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Sampat with sending the recording request to the head end so that that media delivery center would be in control of the entire pause process, alleviating costly and complicated hardware and software at the user site.

Sampat and Swix fail to show an account manager for determining a user's authorization level. Goode shows an account manager for determining what services are available to a user (col. 4 lines 32-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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modify Sampat and Swix with the account manager to more efficiently manage certain client's access rights.

Furthermore, Sampat, Swix, and Goode fail to specifically state that the video streams are performed in accordance with a schedule. Official Notice is given that it is well known and expected in the art to schedule video deliveries. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sampat, Swix, and Goode with a delivery schedule so that future video presentation could be known and provide users with future information.

Regarding Claim 16, Sampat shows that the transmissions medium is a data network (fig. 1).

Regarding Claim 17, Goode shows the use of MPEG (col. 6 lines 17-38).

Regarding Claim 22, Swix shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (col. 9 lines 50-67, col. 10 lines 1-25, col. 14 lines 20-40). Swix clearly shows that the "connection management system" and "navigator" continually determine if a user is allowed to access a pause request based on an elapsed viewing time of the account.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Ellis et al U.S. Patent Application Publication No. US 2003/0149988 discloses a client server based interactive television program guide system with remote server recording.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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